



Sen. John J. Cullerton

**Filed: 4/4/2017**

10000SB0031sam002

LRB100 04996 SLF 24721 a

1 AMENDMENT TO SENATE BILL 31

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 31, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Illinois Trust Act.

7 Section 5. Legislative intent. It is the intent of the  
8 General Assembly that this Act shall not be construed as  
9 providing, expanding, or ratifying the legal authority for any  
10 State or local law enforcement agency to detain an individual  
11 on an immigration detainer or administrative warrant, or  
12 perform any other civil immigration enforcement function.  
13 State law does not grant State or local law enforcement the  
14 authority to enforce federal civil immigration laws.  
15 Interactions between State and local law enforcement and  
16 federal immigration agents shall be consistent and uniform

1 throughout the State.

2 Section 10. Definitions. In this Act:

3 "Administrative warrant" means an immigration warrant of  
4 arrest, order to detain or release aliens, notice of custody  
5 determination, notice to appear, removal order, warrant of  
6 removal, or any other document issued by an immigration agent  
7 or immigration judge that can form the basis for an  
8 individual's arrest or detention for a civil immigration  
9 enforcement purpose including administrative warrants entered  
10 into the Federal Bureau of Investigation's National Crime  
11 Information Center database, or any successor or similar  
12 database maintained by the United States. "Administrative  
13 warrant" does not include any warrants issued by a criminal  
14 court upon a determination of probable cause and in compliance  
15 with the requirements of the Fourth Amendment to the United  
16 States Constitution and Article I, Section 6 of the Illinois  
17 Constitution.

18 "Appropriate personnel" means the personnel of a facility  
19 listed in subsection (a) of Section 40 of this Act that the  
20 Department of Human Services has determined by rule to be a  
21 person of authority for that facility. For a public elementary  
22 or secondary school, the Department shall deem "appropriate  
23 personnel" to be the school district's superintendent, in  
24 consultation with the school district's chief legal counsel.  
25 For an institution of higher education, the Department shall

1 deem "appropriate personnel" to be the president or chancellor  
2 of the institution.

3 "Certification" means any law enforcement certification or  
4 statement required by federal immigration law including, but  
5 not limited to, the information required by Section 1184(p) of  
6 Title 8 of the United States Code (including current United  
7 States Citizenship and Immigration Service Form I-918,  
8 Supplement B, or any successor forms) for purposes of obtaining  
9 a U visa, or by Section 1184(o) of Title 8 of the United States  
10 Code (including current United States Citizenship and  
11 Immigration Service Form I-914, Supplement B, or any successor  
12 forms) for purposes of obtaining a T visa.

13 "Certifying agency" means a State or local law enforcement  
14 agency, prosecutor, or other authority that has responsibility  
15 for the detection, investigation, or prosecution of criminal  
16 activity including an agency that has criminal investigative  
17 jurisdiction in its respective areas of expertise, and  
18 specifically includes the Department of Labor, the Department  
19 of Children and Family Services, the Department of Human  
20 Services, and the Illinois Workers' Compensation Commission,  
21 but not including any State court.

22 "Coerce" means to use express or implied threats towards a  
23 person or family member of a person that attempts to put the  
24 person in immediate fear of the consequences in order to compel  
25 that person to act against his or her will.

26 "Contact information" means home address, work address,

1 telephone number, electronic mail address, social media  
2 information, or any other personal identifying information  
3 that could be used as a means to contact an individual.

4 "Eligible for release from custody" means that the  
5 individual may be released from custody because one of the  
6 following conditions has occurred:

7 (1) all criminal charges against the individual have  
8 been dropped or dismissed;

9 (2) the individual has been acquitted of all criminal  
10 charges filed against him or her;

11 (3) the individual has served all the time required for  
12 his or her sentence;

13 (4) the individual has posted a bond; or

14 (5) the individual is otherwise eligible for release  
15 under State or local law or local policy.

16 "Family member" means a person's (i) mother or father  
17 (including step), spouse, brother or sister (including blood,  
18 step, or half), son or daughter (including blood, step, or  
19 half), father-in-law, mother-in-law, daughter-in-law,  
20 son-in-law, brother-in-law, sister-in-law, grandparent, or  
21 grandchild; (ii) court-appointed legal guardian or a person for  
22 whom the person is a court-appointed legal guardian; or (iii)  
23 domestic partner or the domestic partner's mother or father  
24 (including step), brother or sister (including blood, step, or  
25 half), or son or daughter (including blood, step, or half).

26 "Immigration agent" means an agent of federal Immigration

1 and Customs Enforcement, federal Customs and Border  
2 Protection, an individual authorized to conduct enforcement of  
3 civil immigration laws under Section 1357(g) of Title 8 of the  
4 United States Code or any other federal law, any other federal  
5 agent charged with enforcement of civil immigration laws, or  
6 any successor.

7 "Immigration detainer" means a document issued by an  
8 immigration agent to a federal, State, or local law enforcement  
9 agency that requests that the law enforcement agency provide  
10 notice of release or maintain custody of an individual based on  
11 an alleged violation of a civil immigration law, including  
12 detainers issued under Section 287.7 of Title 8 of the United  
13 States Code or Section 236.1 of Title 8 of the Code of Federal  
14 Regulations.

15 "Law enforcement agency" means an agency in this State  
16 charged with enforcement of State, county, or municipal laws or  
17 with managing custody of detained persons in the State,  
18 including municipal police departments, sheriff's departments,  
19 campus police departments, the Department of State Police, and  
20 the Department of Juvenile Justice.

21 "Law enforcement official" means any officer or other agent  
22 of a State or local law enforcement agency authorized to  
23 enforce criminal laws, rules, regulations, or local ordinances  
24 or to operate jails, correctional facilities, or juvenile  
25 detention facilities or to maintain custody of individuals in  
26 jails, correctional facilities, or juvenile detention

1 facilities.

2 "Qualifying criminal activity" means any activity  
3 regardless of the stage of detection, investigation, or  
4 prosecution, involving one or more of the following or any  
5 similar activity in violation of federal, State, or local  
6 criminal law: rape; torture; trafficking; incest; domestic  
7 violence; sexual assault; abusive sexual contact;  
8 prostitution; sexual exploitation; stalking; female genital  
9 mutilation; being held hostage; peonage; involuntary  
10 servitude; slave trade; kidnapping; abduction; unlawful  
11 criminal restraint; false imprisonment; blackmail; extortion;  
12 manslaughter; murder; felonious assault; witness tampering;  
13 obstruction of justice; perjury; fraud in foreign labor  
14 contracting (as defined in in Section 1351 of Title 18 of the  
15 United States Code); or attempt, conspiracy, or solicitation to  
16 commit any of the above mentioned crimes; and any criminal  
17 activity that has an articulable similarity to any activity  
18 listed under this definition, but is not specifically listed  
19 under this definition. Qualifying criminal activity also means  
20 any qualifying criminal activity that occurs during the  
21 commission of non-qualifying criminal activity, regardless of  
22 whether or not criminal prosecution was sought for the  
23 qualifying criminal activity. There is no statute of  
24 limitations on the criminal activity which falls under this  
25 definition.

26 "Verbal abuse" means the use of a remark which is overtly

1 insulting, mocking, or belittling directed at a person based  
2 upon the actual or perceived: (1) race, color, sex, religion,  
3 national origin, English proficiency, sexual orientation, or  
4 gender identity of that person, or (2) citizenship or  
5 immigration status of that person or that person's family  
6 member.

7 "Victim of qualifying criminal activity" means any  
8 individual who:

9 (1) has reported qualifying criminal activity to a law  
10 enforcement agency or certifying agency;

11 (2) has otherwise participated in the detection,  
12 investigation, or prosecution of qualifying criminal  
13 activity;

14 (3) has suffered direct or proximate harm as a result  
15 of the commission of any qualifying criminal activity;  
16 including, but not limited to, any indirect victim  
17 regardless of the direct victim's immigration or  
18 citizenship status, who, in any case in which the direct  
19 victim is deceased, incompetent, or incapacitated, is the  
20 direct victim's spouse, the direct victim's child under 21  
21 years of age, or if the direct victim is under 21 years of  
22 age, the direct victim's unmarried sibling under 18 years  
23 of age or parent; or

24 (4) was a victim of a severe form of trafficking in  
25 persons as defined in Section 7102 of Title 22 of the  
26 United States Code and Section 10-9 of the Criminal Code of

1           2012.

2           A bystander victim may also be considered as a "victim of  
3           qualifying criminal activity". More than one victim may be  
4           identified and provided with certification depending upon the  
5           circumstances. For purposes of the definition of "victim of  
6           qualifying criminal activity," the term "incapacitated" means  
7           unable to interact with law enforcement agency or certifying  
8           agency personnel as a result of a cognitive impairment or other  
9           physical limitation, or because of physical restraint or  
10          disappearance.

11          Section 15. Prohibited immigration enforcement activities;  
12          exceptions.

13          (a) A law enforcement agency or official shall not detain  
14          or continue to detain any individual solely on the basis of any  
15          immigration detainer or administrative warrant, or otherwise  
16          comply with an immigration detainer or administrative warrant  
17          after that individual becomes eligible for release from  
18          custody.

19          (b) A law enforcement agency or official shall not stop,  
20          arrest, search, detain, or continue to detain a person solely  
21          based on an individual's citizenship or immigration status, an  
22          administrative warrant, an individual's possession of a  
23          temporary visitor's driver's license issued by the Secretary of  
24          State under the Illinois Vehicle Code, or an individual's  
25          possession of a passport, consular identification document, or

1 other identification document issued by a foreign government.

2 (c) A law enforcement agency or official shall not inquire  
3 about the citizenship or immigration status of an individual,  
4 including a crime victim, a witness, or a person who calls or  
5 approaches the law enforcement agency or official seeking  
6 assistance, unless necessary to investigate criminal activity  
7 by that individual.

8 (d) A law enforcement agency or official shall not request  
9 or accept a temporary visitor's driver's license issued by the  
10 Secretary of State under the Illinois Vehicle Code as proof of  
11 a person's identity. A law enforcement agency or official may  
12 only request an individual's temporary visitor's driver's  
13 license to establish that the individual is or is not licensed  
14 by the State to operate a motor vehicle.

15 (e) A law enforcement agency or official shall not enter  
16 into an agreement under Section 1357(g) of Title 8 of the  
17 United States Code or any other federal law that permits State  
18 or local governmental entities to enforce federal civil  
19 immigration laws.

20 (f) A law enforcement agency or official shall not  
21 participate in immigration enforcement operations, including,  
22 but not limited to, operations to establish traffic perimeters,  
23 or requests to provide information on persons that may be the  
24 subject of immigration enforcement operations, except to the  
25 extent necessary to comply with Sections 1373 and 1644 of Title  
26 8 of the United States Code.

1 (g) A law enforcement agency or official shall not:

2 (1) give any immigration agent access to any individual  
3 or allow any immigration agent to use law enforcement  
4 agency facilities for investigative interviews or other  
5 investigative purposes;

6 (2) transfer any person into an immigration agent's  
7 custody;

8 (3) permit federal Immigration and Customs Enforcement  
9 agents use of agency facilities or equipment, including any  
10 agency electronic databases, for investigative interviews  
11 or other investigative purpose or for purposes of executing  
12 an immigration enforcement operation; or

13 (4) respond to immigration agent inquiries regarding  
14 any individual's incarceration status, release date, or  
15 contact information except insofar as the agency makes that  
16 information available to the public.

17 (h) Notwithstanding any other provision of this Section, if  
18 an immigration agent presents to a law enforcement official or  
19 law enforcement agency a valid and properly issued criminal  
20 warrant related to the investigation or prosecution of any  
21 criminal offense, including offenses provided for in the laws  
22 of another state or federal law, or the immigration agent  
23 otherwise demonstrates that he or she is engaged in the  
24 investigation or prosecution of a criminal offense, then the  
25 law enforcement official or law enforcement agency may conduct  
26 any of the activities listed in this Section or otherwise

1 communicate or coordinate with an immigration agent solely for  
2 assisting with that specific purpose. For purposes of this  
3 subsection (h), "criminal offense" shall not include any  
4 offense related to immigration status, including, but not  
5 limited to, a violation of Section 1253, 1304, 1306 (a) or (b),  
6 1325, or 1326 of Title 8 of the United States Code.

7 (i) Nothing in this Section shall be construed to prohibit  
8 or restrict any entity from sending to, or receiving from, the  
9 United States Department of Homeland Security information  
10 regarding the citizenship or immigration status of any  
11 individual under Sections 1373 and 1644 of Title 8 of the  
12 United States Code.

13 (j) Subsection (g) of this Section shall not apply to the  
14 Department of Corrections.

15 (k) Nothing in this Section shall be construed as  
16 restricting any expenditure or activity necessary to the  
17 performance by the State, any local unit of government, or any  
18 law enforcement or other agency, official, employee, or agent  
19 of any obligations under any contract between the State, the  
20 local unit of government, or the agency and federal officials  
21 regarding the use of a facility to detain individuals in  
22 federal immigration removal proceedings.

23 Section 20. Prohibited activities related to immigration  
24 detention facilities. Notwithstanding subsection (k) of  
25 Section 15 of this Act, no State, local unit of government, or

1 agency shall be permitted to contract with a private for-profit  
2 vendor or contractor for the provision of services, other than  
3 ancillary services as defined under the Section 3 of Private  
4 Correctional Facility Moratorium Act, relating to the  
5 operation or management of a facility to detain individuals in  
6 federal immigration removal proceedings, or to approve any  
7 permits, zoning changes, or other measures required for, or to  
8 otherwise facilitate, the construction, operation, or  
9 management of a facility.

10 Section 25. Other prohibited activities; verbal abuse and  
11 coercion. A law enforcement agency or law enforcement official  
12 shall not:

13 (1) coerce any person based upon the person's actual or  
14 perceived citizenship or immigration status or the actual or  
15 perceived citizenship or immigration status of the person's  
16 family member;

17 (2) communicate a threat to deport that person or any  
18 family member of that person under circumstances that  
19 reasonably tend to produce a fear that the threat will be  
20 carried out; or

21 (3) otherwise subject a person to verbal abuse as defined  
22 by Section 10 of this Act.

23 Section 30. Other prohibited activities; registry  
24 programs. A law enforcement agency or law enforcement official

1 shall not expend any time, facilities, equipment, information,  
2 or other resources of the agency or official to facilitate the  
3 creation, publication, or maintenance of any federal program  
4 with the purpose of registering or maintaining a database of  
5 individuals present in the United States based on their race,  
6 color, ancestry, national origin, or religion, or to facilitate  
7 the participation in such a program of any residents of the  
8 jurisdiction served by that agency or official.

9 Section 35. Certifications for victims of qualifying  
10 criminal activity.

11 (a) A certifying agency shall execute any certification  
12 requested by any victim of qualifying criminal activity as  
13 defined in Section 10 of this Act or representative of the  
14 victim including, but not limited to, the victim's attorney,  
15 accredited representative, or domestic violence service  
16 provider, within 90 days of receiving the request. If the  
17 victim seeking certification is in federal immigration removal  
18 proceedings, then the certifying agency shall execute the  
19 certification no later than 14 days after the request is  
20 received by the agency. If the victim's children, parents, or  
21 siblings will become ineligible for benefits under Sections  
22 1184(p) and 1184(o) of Title 8 of the United States Code by  
23 virtue of the victim's children having reached the age of 21  
24 years, the victim having reached the age of 21 years, or the  
25 victim's sibling having reached the age of 18 years within 90

1 days from the date that the certifying agency receives the  
2 certification request, the certifying agency shall execute the  
3 certification no later than 14 days after the request is  
4 received by the agency, or if the loss of the benefit would  
5 occur less than 14 days of receipt of the certification  
6 request, the agency shall execute a certification within 3  
7 days. Requests for expedited certification must be  
8 affirmatively raised by the victim or representative of the  
9 victim.

10 (b) If a certifying agency fails to certify within the time  
11 limit under subsection (a) of this Section, or a victim of  
12 qualifying criminal activity or representative of the victim  
13 disputes the content of a certification, then the victim of  
14 qualifying criminal activity may bring an action in circuit  
15 court to seek certification or amend the certification. The  
16 court shall award court costs and reasonable attorney's fees to  
17 any person who brings a proceeding under this subsection (b)  
18 who prevails. Nothing in this subsection (b) shall limit a  
19 State judge's authority to execute a certification outside the  
20 procedures established by this Section.

21 (c) Each certifying agency has independent legal authority  
22 to issue a certification. The head of each certifying agency,  
23 or a designated agent who performs a supervisory role within  
24 the certifying agency, shall perform the following  
25 responsibilities:

26 (1) respond to requests for certifications as required

1 by this Section;

2 (2) provide outreach to victims of qualifying criminal  
3 activity to inform them of the agency's certification  
4 process; and

5 (3) keep written records of all certification requests  
6 and responses, which shall be reported to the Illinois  
7 Trust Act Compliance Board on an annual basis.

8 (d) A certifying agency shall reissue any certification  
9 within 90 days of receiving a request from the victim of  
10 qualifying criminal activity or representative of the victim  
11 including, but not limited to, the victim's attorney,  
12 accredited representative, or domestic violence service  
13 provider. If the victim seeking recertification has a deadline  
14 for a request for evidence response, the certifying agency  
15 shall execute the certification no later than 14 days after the  
16 request is received by the agency. Requests for expedited  
17 recertification shall be affirmatively raised by the victim or  
18 representative of the victim.

19 (e) Notwithstanding any other provision of this Section, a  
20 certifying agency's completion of a certification shall not be  
21 considered sufficient evidence that the victim has met  
22 eligibility requirements for a U or T visa and completion of a  
23 certification by a certifying agency shall not be construed to  
24 guarantee that a victim will receive federal immigration  
25 relief. It is the exclusive responsibility of federal  
26 immigration officials to determine whether a victim of

1 qualifying criminal activity is eligible for a U or T visa.  
2 Completion of a certification by a certifying agency merely  
3 verifies factual information relevant to the immigration  
4 benefit sought, including information relevant for federal  
5 immigration officials to determine eligibility for a U or T  
6 visa. By completing a certification, the certifying agency  
7 attests that the information is true and correct to the best of  
8 the certifying official's knowledge. If after completion of a  
9 certification, the victim unreasonably refuses to assist in the  
10 investigation or prosecution of the qualifying criminal  
11 activity of which he or she is a victim, then the certifying  
12 agency may notify United States Citizenship and Immigration  
13 Services in writing.

14 (f) All certifying agencies not subject to the training  
15 requirements established in Section 10.17-5 of the Illinois  
16 Police Training Act shall adopt a training program on U and T  
17 nonimmigrant visas and other remedies for immigrant victims of  
18 qualifying criminal activity.

19 (g) All certifying agencies shall adopt and implement a  
20 language access protocol for non-English speaking victims of  
21 qualifying criminal activity.

22 Section 40. Certain State-funded schools and facilities.

23 (a) Absent a judicial warrant or court-ordered subpoena,  
24 the following entities in this State shall not (1) grant access  
25 to any immigration agent as defined in Section 10 of this Act

1 for the sole purpose of the enforcement of federal immigration  
2 law, or (2) otherwise participate in any immigration  
3 enforcement operations with federal, State, or local law  
4 enforcement agencies:

5 (1) State-funded schools, including licensed day care  
6 centers, pre-schools, and other early learning programs;  
7 elementary and secondary schools, and institutions of  
8 higher education.

9 (2) State-funded medical treatment and health care  
10 facilities, including hospitals, health clinics, emergency  
11 or urgent care facilities, nursing homes, group homes for  
12 persons with developmental disabilities,  
13 community-integrated living arrangements, and State mental  
14 health facilities.

15 (3) Facilities operated by the Office of the Secretary  
16 of State.

17 (4) Circuit courts, State appellate courts, or the  
18 Supreme Court.

19 (b) Employees of elementary and secondary schools in this  
20 State and institutions of higher education in this State shall  
21 not inquire about a student's citizenship or immigration status  
22 or that of the student's family members, except in cases of  
23 in-State or in-district tuition verification, scholarships,  
24 grants, or services that are contingent upon this information.  
25 State agencies and state-funded medical treatment and health  
26 care facilities shall not inquire about or request proof of

1 citizenship or immigration status when providing services or  
2 benefits, except when the receipt of the services or benefits  
3 is contingent upon the person's immigration or citizenship  
4 status or when inquiries are otherwise lawfully required by  
5 federal, State, or local laws. State agencies and state-funded  
6 medical treatment and health care facilities shall not collect  
7 information regarding a person's citizenship or immigration  
8 status, except as required by federal or State law.

9 (c) Beginning 120 days after the effective date of this  
10 Act, except as required by federal, State, or local law, no new  
11 applications, questionnaires, or interview forms used in  
12 relation to benefits, opportunities, or services provided by a  
13 State agency or in-State or in-district tuition verification,  
14 scholarships, grants, or services provided by a public  
15 elementary or secondary school or public institution of higher  
16 education may contain any questions regarding citizenship or  
17 immigration status.

18 (d) The appropriate personnel of a facility listed in  
19 subsection (a) of this Section shall develop a plan within 90  
20 days after the effective date of this Act to provide  
21 assistance, information, and safety to persons who are  
22 concerned about the government's immigration enforcement  
23 efforts.

24 (e) Information or documents regarding an individual's  
25 citizenship or immigration status are confidential  
26 information. Absent a judicial warrant or court-ordered

1 subpoena, a school, institution of higher education, State  
2 agency, state-funded medical treatment or health care facility  
3 that collects information or documents regarding an  
4 individual's citizenship or immigration status under federal  
5 or State law shall not disclose or otherwise make available to  
6 any person or entity information or documents regarding an  
7 individual's citizenship or immigration status. Nothing in  
8 this Section is intended to prevent any entity from exchanging  
9 aggregated, de-identified information with State, local, or  
10 federal entities.

11 (f) Nothing in this Section 40 shall be construed to  
12 prohibit or restrict any entity from sending to, or receiving  
13 from, the United States Department of Homeland Security  
14 information regarding the citizenship or immigration status of  
15 any individual under Sections 1373 and 1644 of Title 8 of the  
16 United States Code.

17 Section 45. Equal access to educational, rehabilitative,  
18 and diversionary programs in the criminal justice system.  
19 Neither the Department of Corrections nor any law enforcement  
20 agency may consider an immigration detainer or administrative  
21 warrant in determining an individual's eligibility or  
22 placement in any educational, rehabilitative, or diversionary  
23 program described in the Unified Code of Corrections or any  
24 other educational, rehabilitative, or diversionary program  
25 administered by a law enforcement agency.

1 Section 50. Compliance Board; oversight.

2 (a) The Governor shall appoint, with the advice and consent  
3 of the Senate, an Illinois Trust Act Compliance Board within 90  
4 days after the effective date of this Act. This Board shall  
5 consist of 13 members, serving terms of 3 years, and the  
6 members shall elect their chairperson. No more than 7 members  
7 shall be of the same political party. All appointments shall be  
8 made in writing and filed with the Secretary of State as a  
9 public record.

10 (b) The Board shall consist of the following members:

11 (1) one representative of the Governor's office;

12 (2) one representative of the Attorney General's  
13 office;

14 (3) one representative of the Illinois Legislative  
15 Latino Caucus;

16 (4) one representative of law enforcement from the  
17 Chicago Police Department;

18 (5) one representative of law enforcement from Cook  
19 County;

20 (6) 2 representatives of law enforcement from outside  
21 of Cook County;

22 (7) one representative that advocates for immigrants  
23 in the Latino or Hispanic community in this State;

24 (8) one representative that advocates for immigrants  
25 in the Asian American community in this State;

1           (9) one representative that advocates for immigrants  
2           in the African, Arab, or Muslim American community in this  
3           State;

4           (10) one representative that advocates for immigrants  
5           in this State;

6           (11) 2 representatives that advocate for immigrant  
7           victims of domestic violence, sexual assault, or human  
8           trafficking in this State;

9           (c) This Board shall be charged with the following  
10          responsibilities:

11           (1) monitoring compliance with this Act;

12           (2) disseminating information about this Act to  
13          affected communities and the general public;

14           (3) establishing mechanisms by which the public can  
15          report concerns and recommendations regarding  
16          implementation of this Act;

17           (4) identifying implementation issues and other  
18          trends, and providing recommendations to the Governor and  
19          the Attorney General for addressing these issues;

20           (5) conducting research regarding sharing personally  
21          identifiable information between law enforcement agencies  
22          and federal Immigration and Customs Enforcement, including  
23          but not limited to, research regarding:

24           (A) requests for or investigations involving  
25          personally identifiable information by law enforcement  
26          agencies and officials;

1 (B) sharing of information and data posted in the  
2 Illinois Law Enforcement Agencies Database System  
3 (LEADS) or any other State administered database to  
4 which immigration agents have access;

5 (C) immigration agents' use of the LEADS database  
6 or any other State administered database; and

7 (D) the impact of the requests, investigations,  
8 and sharing and use of information on relations between  
9 law enforcement agencies and immigrant communities;

10 (6) conducting additional research as may be  
11 necessary, including, but not limited to, requesting and  
12 disseminating data from law enforcement agencies relevant  
13 to this Act and this Act's impact on law enforcement  
14 agencies, police-community relations, affected  
15 communities, and the State overall;

16 (7) publishing a report of its activities no less than  
17 once each calendar year; and

18 (8) any other responsibilities relating to this Act as  
19 the Board may identify.

20 Section 55. Private right of action.

21 (a) Any person may bring an action in State circuit court  
22 to challenge any law enforcement official or agency for failure  
23 to fully comply with this Act. If there is a judicial finding  
24 that a law enforcement official or agency has violated this  
25 Act, then the court shall order that the law enforcement

1 official or agency pay a civil penalty of not less than \$1,000  
2 and not more than \$5,000 for each instance that the law  
3 enforcement official or agency has violated this Act.

4 (b) The court shall collect the civil penalty prescribed in  
5 subsection (a) and remit the civil penalty to the Crime Victim  
6 Services Division of the Office of the Attorney General for use  
7 in its programs to assist victims of crime.

8 (c) The court may award court costs and reasonable  
9 attorney's fees to any person who prevails by an adjudication  
10 on the merits in a proceeding brought under this Section.

11 (d) Except in relation to matters in which a law  
12 enforcement officer is adjudged to have acted in bad faith, a  
13 law enforcement officer shall be indemnified by the law  
14 enforcement agency for reasonable costs and expenses,  
15 including attorney's fees, incurred by an officer in connection  
16 with any action, suit, or proceeding brought under this Section  
17 in which the officer may be a defendant by reason of the  
18 officer being or having been a member of the law enforcement  
19 agency.

20 Section 105. The Illinois Notary Public Act is amended by  
21 changing Section 3-104 as follows:

22 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

23 Sec. 3-104. Maximum Fee.

24 (a) Except as provided in subsection (b) of this Section,

1 the maximum fee in this State is \$1.00 for any notarial act  
2 performed and, until July 1, 2018, up to \$25 for any notarial  
3 act performed pursuant to Section 3-102.

4 (b) Fees for a notary public, agency, or any other person  
5 who is not an attorney or an accredited representative filling  
6 out immigration forms shall be limited to the following:

7 (1) \$10 per form completion;

8 (2) \$10 per page for the translation of a non-English  
9 language into English where such translation is required  
10 for immigration forms;

11 (3) \$1 for notarizing;

12 (4) \$3 to execute any procedures necessary to obtain a  
13 document required to complete immigration forms; and

14 (5) A maximum of \$75 for one complete application.

15 Fees authorized under this subsection shall not include  
16 application fees required to be submitted with immigration  
17 applications.

18 Any person who violates the provisions of this subsection  
19 shall be guilty of a Class A misdemeanor for a first offense  
20 and a Class 3 felony for a second or subsequent offense  
21 committed within 5 years of a previous conviction for the same  
22 offense.

23 (c) Upon his own information or upon complaint of any  
24 person, the Attorney General or any State's Attorney, or their  
25 designee, may maintain an action for injunctive relief in the  
26 court against any notary public or any other person who

1 violates the provisions of subsection (b) of this Section.  
2 These remedies are in addition to, and not in substitution for,  
3 other available remedies.

4 (c-5) Notwithstanding subsection (c) of this Section, any  
5 person may file a civil action to enforce the provisions of  
6 this subsection and maintain an action for injunctive relief,  
7 for compensatory damages to recover prohibited fees, or for  
8 such additional relief as may be appropriate to deter, prevent,  
9 or compensate for the violation. In order to deter violations  
10 of this Section, courts shall not require a showing of the  
11 traditional elements for equitable relief. A prevailing  
12 plaintiff may be awarded 3 times the prohibited fees, or a  
13 minimum of \$1,000 in punitive damages, attorney's fees, and  
14 costs of bringing an action under this Section. It is the  
15 express intention of the General Assembly that remedies for  
16 violation of this Section be cumulative. ~~If the Attorney~~  
17 ~~General or any State's Attorney fails to bring an action as~~  
18 ~~provided pursuant to this subsection within 90 days of receipt~~  
19 ~~of a complaint, any person may file a civil action to enforce~~  
20 ~~the provisions of this subsection and maintain an action for~~  
21 ~~injunctive relief.~~

22 (d) All notaries public must provide receipts and keep  
23 records for fees accepted for services provided. Failure to  
24 provide receipts and keep records that can be presented as  
25 evidence of no wrongdoing shall be construed as a presumptive  
26 admission of allegations raised in complaints against the

1 notary for violations related to accepting prohibited fees.

2 (Source: P.A. 98-29, eff. 6-21-13.)

3 Section 110. The Illinois Police Training Act is amended by  
4 adding Section 10.17-5 as follows:

5 (50 ILCS 705/10.17-5 new)

6 Sec. 10.17-5. Training program on federal nonimmigrant  
7 visas. The Board shall conduct or approve a training program on  
8 U and T nonimmigrant visas and other immigration remedies for  
9 immigrant victims of qualifying criminal activity as defined in  
10 Section 10 of the Illinois Trust Act. A law enforcement  
11 agency's continuing education program shall provide to the head  
12 of the agency or the head of the agency's designee continuing  
13 education concerning U and T nonimmigrant visas, and continuing  
14 education concerning cultural diversity awareness.

15 Section 115. The Cannabis Control Act is amended by  
16 changing Section 10 as follows:

17 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

18 Sec. 10. (a) Whenever any person who has not previously  
19 been convicted of, or placed on probation or court supervision  
20 for, any offense under this Act or any law of the United States  
21 or of any State relating to cannabis, or controlled substances  
22 as defined in the Illinois Controlled Substances Act, pleads

1 guilty to or is found guilty of violating Sections 4(a), 4(b),  
2 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without  
3 entering a judgment and with the consent of such person,  
4 sentence him to probation.

5 (b) When a person is placed on probation, the court shall  
6 enter an order specifying a period of probation of 24 months,  
7 and shall defer further proceedings in the case until the  
8 conclusion of the period or until the filing of a petition  
9 alleging violation of a term or condition of probation.

10 (c) The conditions of probation shall be that the person:  
11 (1) not violate any criminal statute of any jurisdiction; (2)  
12 refrain from possession of a firearm or other dangerous weapon;  
13 (3) submit to periodic drug testing at a time and in a manner  
14 as ordered by the court, but no less than 3 times during the  
15 period of the probation, with the cost of the testing to be  
16 paid by the probationer; and (4) perform no less than 30 hours  
17 of community service, provided community service is available  
18 in the jurisdiction and is funded and approved by the county  
19 board.

20 (d) The court may, in addition to other conditions, require  
21 that the person:

22 (1) make a report to and appear in person before or  
23 participate with the court or such courts, person, or  
24 social service agency as directed by the court in the order  
25 of probation;

26 (2) pay a fine and costs;

1           (3) work or pursue a course of study or vocational  
2 training;

3           (4) undergo medical or psychiatric treatment; or  
4 treatment for drug addiction or alcoholism;

5           (5) attend or reside in a facility established for the  
6 instruction or residence of defendants on probation;

7           (6) support his dependents;

8           (7) refrain from possessing a firearm or other  
9 dangerous weapon;

10           (7-5) refrain from having in his or her body the  
11 presence of any illicit drug prohibited by the Cannabis  
12 Control Act, the Illinois Controlled Substances Act, or the  
13 Methamphetamine Control and Community Protection Act,  
14 unless prescribed by a physician, and submit samples of his  
15 or her blood or urine or both for tests to determine the  
16 presence of any illicit drug;

17           (8) and in addition, if a minor:

18                 (i) reside with his parents or in a foster home;

19                 (ii) attend school;

20                 (iii) attend a non-residential program for youth;

21                 (iv) contribute to his own support at home or in a  
22 foster home.

23           (e) Upon violation of a term or condition of probation, the  
24 court may enter a judgment on its original finding of guilt and  
25 proceed as otherwise provided.

26           (f) Upon fulfillment of the terms and conditions of

1 probation, the court shall discharge such person and dismiss  
2 the proceedings against him.

3 (g) A disposition of probation is considered to be a  
4 conviction for the purposes of imposing the conditions of  
5 probation and for appeal, however, discharge and dismissal  
6 under this Section is not a conviction for purposes of  
7 disqualification or disabilities imposed by law upon  
8 conviction of a crime (including the additional penalty imposed  
9 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
10 of this Act).

11 (h) Discharge and dismissal under this Section, Section 410  
12 of the Illinois Controlled Substances Act, Section 70 of the  
13 Methamphetamine Control and Community Protection Act, Section  
14 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, or  
15 subsection (c) of Section 11-14 of the Criminal Code of 1961 or  
16 the Criminal Code of 2012 may occur only once with respect to  
17 any person.

18 (i) If a person is convicted of an offense under this Act,  
19 the Illinois Controlled Substances Act, or the Methamphetamine  
20 Control and Community Protection Act within 5 years subsequent  
21 to a discharge and dismissal under this Section, the discharge  
22 and dismissal under this Section shall be admissible in the  
23 sentencing proceeding for that conviction as a factor in  
24 aggravation.

25 (j) Notwithstanding subsection (a), before a person is  
26 sentenced to probation under this Section, the court may refer

1 the person to the drug court established in that judicial  
2 circuit pursuant to Section 15 of the Drug Court Treatment Act.  
3 The drug court team shall evaluate the person's likelihood of  
4 successfully completing a sentence of probation under this  
5 Section and shall report the results of its evaluation to the  
6 court. If the drug court team finds that the person suffers  
7 from a substance abuse problem that makes him or her  
8 substantially unlikely to successfully complete a sentence of  
9 probation under this Section, then the drug court shall set  
10 forth its findings in the form of a written order, and the  
11 person shall not be sentenced to probation under this Section,  
12 but may be considered for the drug court program.

13 (k) In any case in which a person is sentenced to probation  
14 under this Section and has performed satisfactorily during the  
15 period in which probation was granted, and any criminal charge  
16 against that person was discharged and dismissed under this  
17 Section, the court shall, upon request of the defendant, permit  
18 the defendant to withdraw the plea of guilty or nolo contendere  
19 and enter a plea of not guilty, and the court shall dismiss the  
20 complaint or information against the defendant. If court  
21 records showing the case resolution are no longer available,  
22 the person's declaration, under penalty of perjury, that the  
23 charges were dismissed after he or she completed the  
24 requirements for probation, shall be presumed to be true if the  
25 person has submitted a copy of his or her state summary  
26 criminal history information maintained by the Department of

1 State Police that either shows that the defendant successfully  
2 completed the probation or that the record is incomplete in  
3 that it does not show a final disposition. For purposes of this  
4 Section, a final disposition means that the state summary  
5 criminal history information shows either a dismissal after  
6 completion of the probation or a sentence after termination of  
7 the probation.

8 (Source: P.A. 98-164, eff. 1-1-14; 99-480, eff. 9-9-15.)

9 Section 120. The Illinois Controlled Substances Act is  
10 amended by changing Section 410 as follows:

11 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

12 Sec. 410. (a) Whenever any person who has not previously  
13 been convicted of, or placed on probation or court supervision  
14 for any offense under this Act or any law of the United States  
15 or of any State relating to cannabis or controlled substances,  
16 pleads guilty to or is found guilty of possession of a  
17 controlled or counterfeit substance under subsection (c) of  
18 Section 402 or of unauthorized possession of prescription form  
19 under Section 406.2, the court, without entering a judgment and  
20 with the consent of such person, may sentence him or her to  
21 probation.

22 (b) When a person is placed on probation, the court shall  
23 enter an order specifying a period of probation of 24 months  
24 and shall defer further proceedings in the case until the

1 conclusion of the period or until the filing of a petition  
2 alleging violation of a term or condition of probation.

3 (c) The conditions of probation shall be that the person:

4 (1) not violate any criminal statute of any jurisdiction; (2)  
5 refrain from possessing a firearm or other dangerous weapon;  
6 (3) submit to periodic drug testing at a time and in a manner  
7 as ordered by the court, but no less than 3 times during the  
8 period of the probation, with the cost of the testing to be  
9 paid by the probationer; and (4) perform no less than 30 hours  
10 of community service, provided community service is available  
11 in the jurisdiction and is funded and approved by the county  
12 board.

13 (d) The court may, in addition to other conditions, require  
14 that the person:

15 (1) make a report to and appear in person before or  
16 participate with the court or such courts, person, or  
17 social service agency as directed by the court in the order  
18 of probation;

19 (2) pay a fine and costs;

20 (3) work or pursue a course of study or vocational  
21 training;

22 (4) undergo medical or psychiatric treatment; or  
23 treatment or rehabilitation approved by the Illinois  
24 Department of Human Services;

25 (5) attend or reside in a facility established for the  
26 instruction or residence of defendants on probation;

1 (6) support his or her dependents;

2 (6-5) refrain from having in his or her body the  
3 presence of any illicit drug prohibited by the Cannabis  
4 Control Act, the Illinois Controlled Substances Act, or the  
5 Methamphetamine Control and Community Protection Act,  
6 unless prescribed by a physician, and submit samples of his  
7 or her blood or urine or both for tests to determine the  
8 presence of any illicit drug;

9 (7) and in addition, if a minor:

10 (i) reside with his or her parents or in a foster  
11 home;

12 (ii) attend school;

13 (iii) attend a non-residential program for youth;

14 (iv) contribute to his or her own support at home  
15 or in a foster home.

16 (e) Upon violation of a term or condition of probation, the  
17 court may enter a judgment on its original finding of guilt and  
18 proceed as otherwise provided.

19 (f) Upon fulfillment of the terms and conditions of  
20 probation, the court shall discharge the person and dismiss the  
21 proceedings against him or her.

22 (g) A disposition of probation is considered to be a  
23 conviction for the purposes of imposing the conditions of  
24 probation and for appeal, however, discharge and dismissal  
25 under this Section is not a conviction for purposes of this Act  
26 or for purposes of disqualifications or disabilities imposed by

1 law upon conviction of a crime.

2 (h) There may be only one discharge and dismissal under  
3 this Section, Section 10 of the Cannabis Control Act, Section  
4 70 of the Methamphetamine Control and Community Protection Act,  
5 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections,  
6 or subsection (c) of Section 11-14 of the Criminal Code of 1961  
7 or the Criminal Code of 2012 with respect to any person.

8 (i) If a person is convicted of an offense under this Act,  
9 the Cannabis Control Act, or the Methamphetamine Control and  
10 Community Protection Act within 5 years subsequent to a  
11 discharge and dismissal under this Section, the discharge and  
12 dismissal under this Section shall be admissible in the  
13 sentencing proceeding for that conviction as evidence in  
14 aggravation.

15 (j) Notwithstanding subsection (a), before a person is  
16 sentenced to probation under this Section, the court may refer  
17 the person to the drug court established in that judicial  
18 circuit pursuant to Section 15 of the Drug Court Treatment Act.  
19 The drug court team shall evaluate the person's likelihood of  
20 successfully completing a sentence of probation under this  
21 Section and shall report the results of its evaluation to the  
22 court. If the drug court team finds that the person suffers  
23 from a substance abuse problem that makes him or her  
24 substantially unlikely to successfully complete a sentence of  
25 probation under this Section, then the drug court shall set  
26 forth its findings in the form of a written order, and the

1 person shall not be sentenced to probation under this Section,  
2 but may be considered for the drug court program.

3 (k) In any case in which a person is sentenced to probation  
4 under this Section and has performed satisfactorily during the  
5 period in which probation was granted, and any criminal charge  
6 against that person was discharged and dismissed under this  
7 Section, the court shall, upon request of the defendant, permit  
8 the defendant to withdraw the plea of guilty or nolo contendere  
9 and enter a plea of not guilty, and the court shall dismiss the  
10 complaint or information against the defendant. If court  
11 records showing the case resolution are no longer available,  
12 the person's declaration, under penalty of perjury, that the  
13 charges were dismissed after he or she completed the  
14 requirements for probation, shall be presumed to be true if the  
15 person has submitted a copy of his or her state summary  
16 criminal history information maintained by the Department of  
17 State Police that either shows that the defendant successfully  
18 completed the probation or that the record is incomplete in  
19 that it does not show a final disposition. For purposes of this  
20 Section, a final disposition means that the state summary  
21 criminal history information shows either a dismissal after  
22 completion of the probation or a sentence after termination of  
23 the probation.

24 (Source: P.A. 98-164, eff. 1-1-14; 99-480, eff. 9-9-15.)

25 Section 125. The Code of Criminal Procedure of 1963 is

1 amended by changing Sections 113-8, 122-1, and 122-2.1 and by  
2 adding Section 110-5.2 as follows:

3 (725 ILCS 5/110-5.2 new)

4 Sec. 110-5.2. An individual subject to an immigration  
5 detainer or administrative warrant shall not be denied bail  
6 solely on the basis of that immigration detainer or  
7 administrative warrant. Nothing in this Section may be  
8 construed to undermine the authority of a court to set bail or  
9 a bond determination under this Article.

10 (725 ILCS 5/113-8)

11 Sec. 113-8. Advisement concerning status as an alien.  
12 Before the acceptance of a plea of guilty, guilty but mentally  
13 ill, or nolo contendere to a misdemeanor or felony offense, the  
14 court shall give the following advisement to the defendant in  
15 open court:

16 "If you are not a citizen of the United States, you are  
17 hereby advised that conviction of the offense for which you  
18 have been charged may have the consequences of deportation,  
19 exclusion from admission to the United States, or denial of  
20 naturalization under the laws of the United States.".

21 Nothing in this Section shall be construed to authorize or  
22 direct any court to request that the defendant state his or her  
23 immigration or citizenship status, or to require that the  
24 defendant provide such information.

1 (Source: P.A. 93-373, eff. 1-1-04.)

2 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

3 Sec. 122-1. Petition in the trial court.

4 (a) Any person convicted or adjudicated delinquent of an  
5 offense punishable by a sentence of imprisonment or another  
6 form of detention ~~imprisoned in the penitentiary~~ may institute  
7 a proceeding under this Article if the person asserts that:

8 (1) in the proceedings which resulted in his or her  
9 conviction or delinquency adjudication there was a  
10 substantial denial of his or her rights under the  
11 Constitution of the United States or of the State of  
12 Illinois or both; or

13 (2) ~~the death penalty was imposed and there is newly~~  
14 ~~discovered evidence not available to the person at the time~~  
15 ~~of the proceeding that resulted in his or her conviction~~  
16 that establishes a substantial basis to believe that the  
17 defendant is actually innocent by clear and convincing  
18 evidence.

19 (a-5) A proceeding under paragraph (2) of subsection (a)  
20 may be commenced within a reasonable period of time after the  
21 person's conviction or delinquency adjudication  
22 notwithstanding any other provisions of this Article. ~~In such a~~  
23 ~~proceeding regarding actual innocence, if the court determines~~  
24 ~~the petition is frivolous or is patently without merit, it~~  
25 ~~shall dismiss the petition in a written order, specifying the~~

1 ~~findings of fact and conclusions of law it made in reaching its~~  
2 ~~decision. Such order of dismissal is a final judgment and shall~~  
3 ~~be served upon the petitioner by certified mail within 10 days~~  
4 ~~of its entry.~~

5 (b) The proceeding shall be commenced by filing with the  
6 clerk of the court in which the conviction or delinquency  
7 adjudication took place a petition (together with a copy  
8 thereof) verified by affidavit. Petitioner shall also serve  
9 another copy upon the State's Attorney by any of the methods  
10 provided in Rule 7 of the Supreme Court. The clerk shall docket  
11 the petition for consideration by the court pursuant to Section  
12 122-2.1 upon his or her receipt thereof and bring the same  
13 promptly to the attention of the court.

14 (c) Except as otherwise provided in subsection (a-5), ~~if~~  
15 ~~the petitioner is under sentence of death and a petition for~~  
16 ~~writ of certiorari is filed, no proceedings under this Article~~  
17 ~~shall be commenced more than 6 months after the conclusion of~~  
18 ~~proceedings in the United States Supreme Court, unless the~~  
19 ~~petitioner alleges facts showing that the delay was not due to~~  
20 ~~his or her culpable negligence. If a petition for certiorari is~~  
21 ~~not filed, no proceedings under this Article shall be commenced~~  
22 ~~more than 6 months from the date for filing a certiorari~~  
23 ~~petition, unless the petitioner alleges facts showing that the~~  
24 ~~delay was not due to his or her culpable negligence.~~

25 ~~When a defendant has a sentence other than death, no~~  
26 proceedings under this Article shall be commenced more than 6

1 months after the conclusion of proceedings in the United States  
2 Supreme Court, unless the petitioner alleges facts showing that  
3 the delay was not due to his or her culpable negligence. If a  
4 petition for certiorari is not filed, no proceedings under this  
5 Article shall be commenced more than 6 months from the date for  
6 filing a certiorari petition, unless the petitioner alleges  
7 facts showing that the delay was not due to his or her culpable  
8 negligence. If a defendant does not file a direct appeal, the  
9 post-conviction petition shall be filed no later than 3 years  
10 from the date of conviction or delinquency adjudication, unless  
11 the petitioner alleges facts showing that the delay was not due  
12 to his or her culpable negligence.

13 This limitation does not apply to a petition advancing a  
14 claim of actual innocence.

15 (d) A person seeking relief by filing a petition under this  
16 Section must specify in the petition or its heading that it is  
17 filed under this Section. A trial court that has received a  
18 petition complaining of a conviction, delinquency  
19 adjudication, or sentence that fails to specify in the petition  
20 or its heading that it is filed under this Section need not  
21 evaluate the petition to determine whether it could otherwise  
22 have stated some grounds for relief under this Article.

23 (e) A proceeding under this Article may not be commenced on  
24 behalf of a defendant ~~who has been sentenced to death~~ without  
25 the written consent of the defendant, unless the defendant,  
26 because of a mental or physical condition, is incapable of

1 asserting his or her own claim.

2 (f) Only one petition may be filed by a petitioner under  
3 this Article without leave of the court. The determination as  
4 to whether to grant leave of court shall be made prior to or  
5 contemporaneously with any order made under paragraph (2) of  
6 subsection (a) or subsection (b) of Section 122-2.1 of this  
7 Article without pleadings from the State. Leave of court may be  
8 granted only if a petitioner demonstrates:

9 (1) cause for his or her failure to bring the claim in  
10 his or her initial post-conviction proceedings and  
11 prejudice results from that failure; or

12 (2) that there has been a fundamental miscarriage of  
13 justice.

14 For purposes of this subsection (f):

15 (1) a petitioner demonstrates ~~prisoner shows~~ cause by  
16 adequately pleading that ~~identifying~~ an identified  
17 ~~objective~~ factor ~~that~~ impeded his or her ability to raise a  
18 specific claim during his or her initial post-conviction  
19 proceedings; ~~and~~

20 (2) a petitioner demonstrates ~~prisoner shows~~ prejudice  
21 by adequately pleading ~~demonstrating~~ that the claim not  
22 raised during his or her initial post-conviction  
23 proceedings so infected the trial that the resulting  
24 conviction or sentence violated due process; and

25 (3) a petitioner demonstrates a fundamental  
26 miscarriage of justice by adequately pleading that there is

1       newly discovered evidence that establishes a substantial  
2       basis to believe that the petitioner is actually innocent  
3       by clear and convincing evidence.

4       (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;  
5       93-972, eff. 8-20-04.)

6               (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

7       Sec. 122-2.1. (a) Within 90 days after the filing and  
8       docketing of each petition, the court shall examine the ~~such~~  
9       petition and enter an order thereon under ~~pursuant~~ to this  
10       Section.

11               (1) If the petitioner is under sentence of death and is  
12       without counsel and alleges that he is without means to  
13       procure counsel, he shall state whether or not he wishes  
14       counsel to be appointed to represent him. If appointment of  
15       counsel is so requested, the court shall appoint counsel if  
16       satisfied that the petitioner has no means to procure  
17       counsel.

18               (2) If ~~the petitioner is sentenced to imprisonment and~~  
19       the court determines the petition is frivolous or is  
20       patently without merit, it shall dismiss the petition in a  
21       written order, specifying the findings of fact and  
22       conclusions of law it made in reaching its decision. This  
23       ~~Such~~ order of dismissal is a final judgment and shall be  
24       served upon the petitioner by certified mail within 10 days  
25       of its entry.

1 (b) If the petition is not dismissed under ~~pursuant to~~ this  
2 Section, the court shall order the petition to be docketed for  
3 further consideration in accordance with Sections 122-4  
4 through 122-6. If the petitioner is under sentence of death,  
5 the court shall order the petition to be docketed for further  
6 consideration and hearing within one year of the filing of the  
7 petition. Continuances may be granted as the court deems  
8 appropriate.

9 (c) In considering a petition under ~~pursuant to~~ this  
10 Section, the court may examine the court file of the proceeding  
11 in which the petitioner was convicted, any action taken by an  
12 appellate court in that ~~such~~ proceeding and any transcripts of  
13 that ~~such~~ proceeding.

14 (Source: P.A. 93-605, eff. 11-19-03.)

15 Section 130. The Probation and Probation Officers Act is  
16 amended by changing Section 12 as follows:

17 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

18 Sec. 12. The duties of probation officers shall be:

19 (1) To investigate as required by Section 5-3-1 of the  
20 "Unified Code of Corrections", approved July 26, 1972, as  
21 amended, the case of any person to be placed on probation. Full  
22 opportunity shall be afforded a probation officer to confer  
23 with the person under investigation when such person is in  
24 custody.

1           (2) To notify the court of any previous conviction for  
2 crime or previous probation of any defendant invoking the  
3 provisions of this Act.

4           (3) All reports and notifications required in this Act to  
5 be made by probation officers shall be in writing and shall be  
6 filed by the clerk in the respective cases.

7           (4) To preserve complete and accurate records of cases  
8 investigated, including a description of the person  
9 investigated, the action of the court with respect to his case  
10 and his probation, the subsequent history of such person, if he  
11 becomes a probationer, during the continuance of his probation,  
12 which records shall be open to inspection by any judge or by  
13 any probation officer pursuant to order of court, but shall not  
14 be a public record, and its contents shall not be divulged  
15 otherwise than as above provided, except upon order of court;  
16 provided that nothing in this Section shall be construed to  
17 require or direct any probation officer to (A) inquire to the  
18 United States Department of Homeland Security regarding the  
19 citizenship or immigration status of a person or (B) provide to  
20 the United States Department of Homeland Security any personal  
21 information regarding that person, unless otherwise required  
22 by law.

23           (5) To take charge of and watch over all persons placed on  
24 probation under such regulations and for such terms as may be  
25 prescribed by the court, and giving to each probationer full  
26 instructions as to the terms of his release upon probation and

1 requiring from him such periodical reports as shall keep the  
2 officer informed as to his conduct.

3 (6) To develop and operate programs of reasonable public or  
4 community service for any persons ordered by the court to  
5 perform public or community service, providing, however, that  
6 no probation officer or any employee of a probation office  
7 acting in the course of his official duties shall be liable for  
8 any tortious acts of any person performing public or community  
9 service except for wilful misconduct or gross negligence on the  
10 part of the probation officer or employee.

11 (7) When any person on probation removes from the county  
12 where his offense was committed, it shall be the duty of the  
13 officer under whose care he was placed to report the facts to  
14 the probation officer in the county to which the probationer  
15 has removed; and it shall thereupon become the duty of such  
16 probation officer to take charge of and watch over said  
17 probationer the same as if the case originated in that county;  
18 and for that purpose he shall have the same power and authority  
19 over said probationer as if he had been originally placed in  
20 said officer's charge; and such officer shall be required to  
21 report in writing every 6 months, or more frequently upon  
22 request the results of his supervision to the probation officer  
23 in whose charge the said probationer was originally placed by  
24 the court.

25 (8) To authorize travel permits to individuals under their  
26 supervision unless otherwise ordered by the court.

1           (9) To perform such other duties as are provided for in  
2 this act or by rules of court and such incidental duties as may  
3 be implied from those expressly required.

4           (10) To send written notification to a public housing  
5 agency if a person on probation for a felony who is under the  
6 supervision of the probation officer informs the probation  
7 officer that he or she has resided, resides, or will reside at  
8 an address that is a housing facility owned, managed, operated,  
9 or leased by that public housing agency.

10          (11) If a person on probation for a felony offense who is  
11 under the supervision of the probation officer becomes a  
12 resident of a facility licensed or regulated by the Department  
13 of Public Health, the Illinois Department of Public Aid, or  
14 Illinois Department of Human Services, the probation officer  
15 shall within 3 days of the person becoming a resident, notify  
16 the licensing or regulating Department and licensed or  
17 regulated facility and shall provide the licensed or regulated  
18 facility and licensing or regulating Department with copies of  
19 the following:

20           (a) (blank);

21           (b) any applicable probation orders and corresponding  
22 compliance plans;

23           (c) the name and contact information for the assigned  
24 probation officer.

25          (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

1           Section 135. The Consumer Fraud and Deceptive Business  
2 Practices Act is amended by changing Section 2AA as follows:

3           (815 ILCS 505/2AA)

4           Sec. 2AA. Immigration services.

5           (a) "Immigration matter" means any proceeding, filing, or  
6 action affecting the nonimmigrant, immigrant or citizenship  
7 status of any person that arises under immigration and  
8 naturalization law, executive order or presidential  
9 proclamation of the United States or any foreign country, or  
10 that arises under action of the United States Citizenship and  
11 Immigration Services, the United States Department of Labor, or  
12 the United States Department of State.

13           "Immigration assistance service" means any information or  
14 action provided or offered to customers or prospective  
15 customers related to immigration matters, excluding legal  
16 advice, recommending a specific course of legal action, or  
17 providing any other assistance that requires legal analysis,  
18 legal judgment, or interpretation of the law.

19           "Compensation" means money, property, services, promise of  
20 payment, or anything else of value.

21           "Employed by" means that a person is on the payroll of the  
22 employer and the employer deducts from the employee's paycheck  
23 social security and withholding taxes, or receives  
24 compensation from the employer on a commission basis or as an  
25 independent contractor.

1 "Reasonable costs" means actual costs or, if actual costs  
2 cannot be calculated, reasonably estimated costs of such things  
3 as photocopying, telephone calls, document requests, and  
4 filing fees for immigration forms, and other nominal costs  
5 incidental to assistance in an immigration matter.

6 (a-1) The General Assembly finds and declares that private  
7 individuals who assist persons with immigration matters have a  
8 significant impact on the ability of their clients to reside  
9 and work within the United States and to establish and maintain  
10 stable families and business relationships. The General  
11 Assembly further finds that that assistance and its impact also  
12 have a significant effect on the cultural, social, and economic  
13 life of the State of Illinois and thereby substantially affect  
14 the public interest. It is the intent of the General Assembly  
15 to establish rules of practice and conduct for those  
16 individuals to promote honesty and fair dealing with residents  
17 and to preserve public confidence.

18 (a-5) The following persons are exempt from this Section,  
19 provided they prove the exemption by a preponderance of the  
20 evidence:

21 (1) An attorney licensed to practice law in any state  
22 or territory of the United States, or of any foreign  
23 country when authorized by the Illinois Supreme Court, to  
24 the extent the attorney renders immigration assistance  
25 service in the course of his or her practice as an  
26 attorney.

1           (2) A legal intern, as described by the rules of the  
2 Illinois Supreme Court, employed by and under the direct  
3 supervision of a licensed attorney and rendering  
4 immigration assistance service in the course of the  
5 intern's employment.

6           (3) A not-for-profit organization recognized by the  
7 Board of Immigration Appeals under 8 C.F.R. 292.2(a) and  
8 employees of those organizations accredited under 8 C.F.R.  
9 292.2(d).

10          (4) Any organization employing or desiring to employ a  
11 documented or undocumented immigrant or nonimmigrant  
12 alien, where the organization, its employees or its agents  
13 provide advice or assistance in immigration matters to  
14 documented or undocumented immigrant or nonimmigrant alien  
15 employees or potential employees without compensation from  
16 the individuals to whom such advice or assistance is  
17 provided.

18          Nothing in this Section shall regulate any business to the  
19 extent that such regulation is prohibited or preempted by State  
20 or federal law.

21          All other persons providing or offering to provide  
22 immigration assistance service shall be subject to this  
23 Section.

24          (b) Any person who provides or offers to provide  
25 immigration assistance service may perform only the following  
26 services:

1           (1) Completing a government agency form, requested by  
2           the customer and appropriate to the customer's needs, only  
3           if the completion of that form does not involve a legal  
4           judgment for that particular matter.

5           (2) Transcribing responses to a government agency form  
6           which is related to an immigration matter, but not advising  
7           a customer as to his or her answers on those forms.

8           (3) Translating information on forms to a customer and  
9           translating the customer's answers to questions posed on  
10          those forms.

11          (4) Securing for the customer supporting documents  
12          currently in existence, such as birth and marriage  
13          certificates, which may be needed to be submitted with  
14          government agency forms.

15          (5) Translating documents from a foreign language into  
16          English.

17          (6) Notarizing signatures on government agency forms,  
18          if the person performing the service is a notary public of  
19          the State of Illinois.

20          (7) Making referrals, without fee, to attorneys who  
21          could undertake legal representation for a person in an  
22          immigration matter.

23          (8) Preparing or arranging for the preparation of  
24          photographs and fingerprints.

25          (9) Arranging for the performance of medical testing  
26          (including X-rays and AIDS tests) and the obtaining of

1 reports of such test results.

2 (10) Conducting English language and civics courses.

3 (11) Other services that the Attorney General  
4 determines by rule may be appropriately performed by such  
5 persons in light of the purposes of this Section.

6 Fees for a notary public, agency, or any other person who  
7 is not an attorney or an accredited representative filling out  
8 immigration forms shall be limited to the maximum fees set  
9 forth in subsections (a) and (b) of Section 3-104 of the Notary  
10 Public Act (5 ILCS 312/3-104). The maximum fee schedule set  
11 forth in subsections (a) and (b) of Section 3-104 of the Notary  
12 Public Act shall apply to any person that provides or offers to  
13 provide immigration assistance service performing the services  
14 described therein. The Attorney General may promulgate rules  
15 establishing maximum fees that may be charged for any services  
16 not described in that subsection. The maximum fees must be  
17 reasonable in light of the costs of providing those services  
18 and the degree of professional skill required to provide the  
19 services.

20 No person subject to this Act shall charge fees directly or  
21 indirectly for referring an individual to an attorney or for  
22 any immigration matter not authorized by this Article, provided  
23 that a person may charge a fee for notarizing documents as  
24 permitted by the Illinois Notary Public Act.

25 (c) Any person performing such services shall register with  
26 the Illinois Attorney General and submit verification of

1 malpractice insurance or of a surety bond.

2 (d) Except as provided otherwise in this subsection, before  
3 providing any assistance in an immigration matter a person  
4 shall provide the customer with a written contract that  
5 includes the following:

6 (1) An explanation of the services to be performed.

7 (2) Identification of all compensation and costs to be  
8 charged to the customer for the services to be performed.

9 (3) A statement that documents submitted in support of  
10 an application for nonimmigrant, immigrant, or  
11 naturalization status may not be retained by the person for  
12 any purpose, including payment of compensation or costs.

13 This subsection does not apply to a not-for-profit  
14 organization that provides advice or assistance in immigration  
15 matters to clients without charge beyond a reasonable fee to  
16 reimburse the organization's or clinic's reasonable costs  
17 relating to providing immigration services to that client.

18 (e) Any person who provides or offers immigration  
19 assistance service and is not exempted from this Section, shall  
20 post signs at his or her place of business, setting forth  
21 information in English and in every other language in which the  
22 person provides or offers to provide immigration assistance  
23 service. Each language shall be on a separate sign. Signs shall  
24 be posted in a location where the signs will be visible to  
25 customers. Each sign shall be at least 11 inches by 17 inches,  
26 and shall contain the following:

1           (1) The statement "I AM NOT AN ATTORNEY LICENSED TO  
2 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES  
3 FOR LEGAL ADVICE."

4           (2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU  
5 BEFORE THE UNITED STATES IMMIGRATION AND NATURALIZATION  
6 SERVICE AND THE IMMIGRATION BOARD OF APPEALS."

7           (3) The fee schedule.

8           (4) The statement that "You may cancel any contract  
9 within 3 working days and get your money back for services  
10 not performed."

11           (5) Additional information the Attorney General may  
12 require by rule.

13           Every person engaged in immigration assistance service who  
14 is not an attorney who advertises immigration assistance  
15 service in a language other than English, whether by radio,  
16 television, signs, pamphlets, newspapers, or other written  
17 communication, with the exception of a single desk plaque,  
18 shall include in the document, advertisement, stationery,  
19 letterhead, business card, or other comparable written  
20 material the following notice in English and the language in  
21 which the written communication appears. This notice shall be  
22 of a conspicuous size, if in writing, and shall state: "I AM  
23 NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY  
24 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such  
25 advertisement is by radio or television, the statement may be  
26 modified but must include substantially the same message.

1 Any person who provides or offers immigration assistance  
2 service and is not exempted from this Section shall not, in any  
3 document, advertisement, stationery, letterhead, business  
4 card, or other comparable written material, literally  
5 translate from English into another language terms or titles  
6 including, but not limited to, notary public, notary, licensed,  
7 attorney, lawyer, or any other term that implies the person is  
8 an attorney. To illustrate, the words "notario" and "poder  
9 notarial" are prohibited under this provision.

10 If not subject to penalties under subsection (a) of Section  
11 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations  
12 of this subsection shall result in a fine of \$1,000. Violations  
13 shall not preempt or preclude additional appropriate civil or  
14 criminal penalties.

15 (f) The written contract shall be in both English and in  
16 the language of the customer.

17 (g) A copy of the contract shall be provided to the  
18 customer upon the customer's execution of the contract.

19 (h) A customer has the right to rescind a contract within  
20 72 hours after his or her signing of the contract.

21 (i) Any documents identified in paragraph (3) of subsection  
22 (c) shall be returned upon demand of the customer.

23 (j) No person engaged in providing immigration services who  
24 is not exempted under this Section shall do any of the  
25 following:

26 (1) Make any statement that the person can or will

1 obtain special favors from or has special influence with  
2 the United States Immigration and Naturalization Service  
3 or any other government agency.

4 (2) Retain any compensation for service not performed.

5 (2.5) Accept payment in exchange for providing legal  
6 advice or any other assistance that requires legal  
7 analysis, legal judgment, or interpretation of the law.

8 (3) Refuse to return documents supplied by, prepared on  
9 behalf of, or paid for by the customer upon the request of  
10 the customer. These documents must be returned upon request  
11 even if there is a fee dispute between the immigration  
12 assistant and the customer.

13 (4) Represent or advertise, in connection with the  
14 provision assistance in immigration matters, other titles  
15 of credentials, including but not limited to "notary  
16 public" or "immigration consultant," that could cause a  
17 customer to believe that the person possesses special  
18 professional skills or is authorized to provide advice on  
19 an immigration matter; provided that a notary public  
20 appointed by the Illinois Secretary of State may use the  
21 term "notary public" if the use is accompanied by the  
22 statement that the person is not an attorney; the term  
23 "notary public" may not be translated to another language;  
24 for example "notario" is prohibited.

25 (5) Provide legal advice, recommend a specific course  
26 of legal action, or provide any other assistance that

1 requires legal analysis, legal judgment, or interpretation  
2 of the law.

3 (6) Make any misrepresentation of false statement,  
4 directly or indirectly, to influence, persuade, or induce  
5 patronage.

6 (k) (Blank)

7 (l) (Blank)

8 (m) Any person who violates any provision of this Section,  
9 or the rules and regulations issued under this Section, shall  
10 be guilty of a Class A misdemeanor for a first offense and a  
11 Class 3 felony for a second or subsequent offense committed  
12 within 5 years of a previous conviction for the same offense.

13 Upon his own information or upon the complaint of any  
14 person, the Attorney General or any State's Attorney, or a  
15 municipality with a population of more than 1,000,000, may  
16 maintain an action for injunctive relief and also seek a civil  
17 penalty not exceeding \$50,000 in the circuit court against any  
18 person who violates any provision of this Section. These  
19 remedies are in addition to, and not in substitution for, other  
20 available remedies.

21 Notwithstanding this subsection (m), any ~~If the Attorney~~  
22 ~~General or any State's Attorney or a municipality with a~~  
23 ~~population of more than 1,000,000 fails to bring an action as~~  
24 ~~provided under this Section any~~ person may file a civil action  
25 to enforce the provisions of this Article and maintain an  
26 action for injunctive relief, for compensatory damages to

1 recover prohibited fees, or for such additional relief as may  
2 be appropriate to deter, prevent, or compensate for the  
3 violation. In order to deter violations of this Section, courts  
4 shall not require a showing of the traditional elements for  
5 equitable relief. A prevailing plaintiff may be awarded 3 times  
6 the prohibited fees or a minimum of \$1,000 in punitive damages,  
7 attorney's fees, and costs of bringing an action under this  
8 Section. It is the express intention of the General Assembly  
9 that remedies for violation of this Section be cumulative.

10 (n) No unit of local government, including any home rule  
11 unit, shall have the authority to regulate immigration  
12 assistance services unless such regulations are at least as  
13 stringent as those contained in this amendatory Act of 1992. It  
14 is declared to be the law of this State, pursuant to paragraph  
15 (i) of Section 6 of Article VII of the Illinois Constitution of  
16 1970, that this amendatory Act of 1992 is a limitation on the  
17 authority of a home rule unit to exercise powers concurrently  
18 with the State. The limitations of this Section do not apply to  
19 a home rule unit that has, prior to the effective date of this  
20 amendatory Act, adopted an ordinance regulating immigration  
21 assistance services.

22 (o) This Section is severable under Section 1.31 of the  
23 Statute on Statutes.

24 (p) The Attorney General shall issue rules not inconsistent  
25 with this Section for the implementation, administration, and  
26 enforcement of this Section. The rules may provide for the

1 following:

2 (1) The content, print size, and print style of the  
3 signs required under subsection (e). Print sizes and styles  
4 may vary from language to language.

5 (2) Standard forms for use in the administration of  
6 this Section.

7 (3) Any additional requirements deemed necessary.

8 (Source: P.A. 99-679, eff. 1-1-17.)

9 Section 997. Severability. The provisions of this Act are  
10 severable under Section 1.31 of the Statute on Statutes.

11 Section 999. Effective date. This Act takes effect upon  
12 becoming law."